

Notice of Allowability	Application No.	Applicant(s)	
	10/077,591	LARKINS, JAMES	
	Examiner	Art Unit	
	David T. Fox	1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephonic inquiry of 21 June 2006.
2. ☒ The allowed claim(s) is/are 1-23 and 27-31 renumbered as 1-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>21 June 2006</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

In response to Applicant's telephonic inquiry of 21 June 2006, the Request for Information under 37 CFR 1.105 mailed 30 March 2006 is hereby VACATED, in view of Applicant's stated intent to pursue allowable subject matter in the instant application.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

IN THE CLAIMS:

Claims 24-26 were cancelled without prejudice.

Claims 3-4, 6, 11, 15, 17, 20, 22, 27-28 and 30-31 were amended as follows:

---Claim 3 (Currently amended). An essentially homogenous population of corn seeds consisting essentially of the corn seed of claim 1 [The population of seed of claim 2, further defined as an essentially homogeneous population of seed].

Claim 4 (Currently amended). [The population of seed of claim 2, further defined as essentially free from hybrid seed] A population of corn seeds consisting essentially of the inbred corn seed of claim 1, and essentially free from hybrid seed.---

---Claim 6 (Currently amended). The corn plant of claim 5, having:

(a) the [an] SSR profile for corn plant I450436 [in accordance with the profile] shown in Table [5] 6; or

(b) the [an] isozyme typing profile for corn plant I450436 [in accordance with the profile] shown in Table [6] 7.---

---Claim 11 (Currently amended). The plant part of claim 10, wherein said cell is further defined as having:

(a) the [an] SSR profile for corn plant I450436 [in accordance with the profile] shown in Table [5] 6; or

(b) the [an] isozyme typing profile for corn plant I450436 [in accordance with the profile] shown in Table [6] 7.---

In claim 15, line 1, "capable of" was deleted.

---Claim 17 (Currently amended). [() A tissue culture of regenerable cells of a plant of corn variety I450436, wherein the tissue [is capable of regenerating] culture regenerates plants [capable of] expressing all the physiological and morphological characteristics of the corn variety I450436, wherein a sample of the seed of corn variety I450436 was deposited under ATCC Accession No. PTA-4495.---

In claim 20, lines 1-2, "is capable of expressing" was replaced with --- expresses---.

---Claim 22 (Currently amended). The process of claim 21, further defined as a process of producing F1 hybrid corn seed, comprising crossing a first inbred corn plant with a second, distinct inbred corn plant, wherein the first or second inbred corn plant is a plant of corn variety I450436, wherein a sample of the seed of the corn variety I450436 was deposited under ATCC Accession No. PTA-4495.---

---Claim 27 (Currently amended). The corn plant of claim 5, [further defined as having] comprising a genome further comprising a single locus conversion.

Claim 28 (Currently amended). The corn plant of claim 27, wherein the single locus was [stably inserted into a corn genome by transformation] conferred by a transgene.---

In claim 30, line 3, "yield enhancement;" and "improved nutritional quality;" were deleted.

In claim 30, lines 3-4, "enhanced yield stability;" was deleted.

In claim 31, part (d), line 1, "addition" was replaced with ---additional---.

Authorization for this examiner's amendment was given in a telephone interview with Robert E. Hanson on 29 June 2006.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fox whose telephone number is 571-272-0795. The examiner can normally be reached on Monday through Friday from 10:30AM to 7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg, can be reached on 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 30, 2006

DAVID T. FOX
PRIMARY EXAMINER
GROUP 180 / 638

